

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

ASHLEY LATRELL ROBERTS

PLAINTIFF

V.

CIVIL ACTION NO.3:18-CV-54-DAS

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

FINAL JUDGMENT

This cause is before the court on the claimant's complaint for judicial review of an unfavorable final decision by the Commissioner of the Social Security Administration. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The court, having reviewed the administrative record, the briefs of the parties, and the applicable law and having heard oral argument, finds as follows, to-wit:

The court finds that the RFC in this case is not supported by substantial evidence. There are medical source statements that address the plaintiff's residual capacity from a treating physician and from the state disability determination doctors. The ALJ did not attribute much weight to either opinion, and there is no other medical source statement to support the RFC. The ALJ substantially discounted the treating source's opinions and restrictions because the orthopedist's suspicion of a possible non-union in the plaintiff's ankle fusion was not confirmed by a later CT scan. The ALJ erred in assuming that the later CT scan would have changed the doctor's opinion or justify discounting the opinion, making a medical judgment about the import of the CT scan in a case with scant medical records. The ALJ either should have recontacted the orthopedist and/or ordered a CE. The case is remanded for reconsideration of the plaintiff's

RFC. The ALJ shall obtain updated medical records, if any, and shall consider either recontacting Dr. Micek or ordering a CE examination as appropriate.

IT IS, THEREFORE, ORDERED AND ADJUDGED that this case is reversed and remanded for further proceedings consistent with the ruling of the court and this judgment.

SO ORDERED AND ADJUDGED this the 24th of September, 2019.

/s/ David A. Sanders

UNITED STATES MAGISTRATE JUDGE